

AN ACT

ENTITLED, An Act to extend medical assistance recovery to estates of surviving spouses of certain deceased medical assistance recipients.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 28-6-23 be amended to read as follows:

28-6-23. Any payment of medical assistance by or through the Department of Social Services to an individual who is an inpatient in a nursing facility, an intermediate care facility for the mentally retarded, or other medical institution, is a debt due to the department. Any payment on behalf of any person fifty-five years of age or older for nursing facility services, home and community based services, intermediate care facility services for the mentally retarded, hospital and prescription drug services, is a debt due the department. The Department of Social Services shall establish a system of recovery of medical assistance correctly paid by or through the department. The Department of Social Services may file a claim against the estate of the surviving spouse of a medical assistance recipient to satisfy the debt established under this section. The secretary of social services shall adopt rules, pursuant to chapter 1-26, to define the scope of recoveries, establish hardship limitations on recoveries, establish limits on recoveries, and provide rules required to obtain federal financial participation in the medical assistance program.

For the purposes of this section, a surviving spouse is a person who was married to the deceased medical assistance recipient when the recipient became eligible for medical assistance, who has not divorced the medical assistance recipient, and who has not remarried after the recipient's death.

Section 2. A surviving spouse may petition the Department of Social Services for purposes of limiting the financial responsibility of the estate of the surviving spouse. The financial responsibility of the estate of the surviving spouse may not exceed the value of the estate of the surviving spouse as of the date of death of the medical assistance recipient. For purposes of the determination of the financial responsibility, it shall be assumed that the surviving spouse died simultaneously with the

medical assistance recipient. The petition for financial responsibility shall be filed with the Department of Social Services within six months of the date of death of the medical assistance recipient.

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I certify that the attached Act
originated in the

SENATE as Bill No. 63

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 63
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor
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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State